

AMENDED IN ASSEMBLY AUGUST 15, 2005

AMENDED IN ASSEMBLY JULY 7, 2005

AMENDED IN ASSEMBLY JUNE 27, 2005

AMENDED IN SENATE MAY 4, 2005

AMENDED IN SENATE APRIL 18, 2005

SENATE BILL

No. 569

Introduced by Senator Torlakson

(Coauthors: Senators Cedillo and Escutia, Escutia, and Romero)

~~(Coauthor: Assembly Member Parra)~~ *Coauthors: Assembly Members
Parra, Chavez, Parra, and Umberg)*

February 18, 2005

An act to add and repeal Article 5 (commencing with Section 89090) of Chapter 1 of Part 55 of, and to add and repeal Article 4 (commencing with Section 92630) of Chapter 6 of Part 57 of, the Education Code, relating to public postsecondary education.

LEGISLATIVE COUNSEL'S DIGEST

SB 569, as amended, Torlakson. Public postsecondary education: California State University and University of California: disclosure of alumni names, addresses, and electronic mail addresses.

Existing law establishes the California State University, administered by the Trustees of the California State University, and the University of California, administered by the Regents of the University of California, as 2 of the segments of public postsecondary education in this state. Existing law establishes the Hastings College of the Law, under the governance of the Board of Directors of the Hastings College of the Law, within the University of California.

This bill would prescribe criteria for the disclosure of the names and addresses of alumni of the California State University, the University of California, and the Hastings College of the Law. The bill would require that ~~these~~ *the* names, addresses, and electronic mail addresses of alumni be disclosed only to provide those persons with informational materials relating to the university and its programs and activities; to provide those persons, or the trustees, auxiliary organizations of the California State University, as defined, the regents, ~~or~~ the board of directors, ~~and~~ *or* the alumni associations with beneficial commercial opportunities; or to promote and support the educational mission of the university, the trustees, the regents, ~~or~~ the board of directors, or the alumni associations.

The bill would authorize this disclosure only if the trustees, auxiliary organizations, regents, ~~or~~ board of directors, or the alumni associations, have a ~~contractual~~ *written* agreement with a business, as defined, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the respective universities retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni pursuant to the bill, and that prohibits the business from using the information for any purposes other than those described, and the disclosure of alumni names, addresses, and electronic mail addresses does not include the names and addresses of alumni who have directed the trustees, regents, or board of directors, or an alumni association or auxiliary organization, not to disclose their names, addresses, or electronic mail addresses.

The bill would require the respective universities to make available to their alumni a specified form or an alternative notice, including specified information, in a mailing or in an Internet posting, as prescribed, before alumni names, addresses, and electronic mail addresses could be disclosed.

The bill would apply to the University of California only to the extent that the regents act, by resolution, to make it applicable. The bill would apply to the Hastings College of the Law only to the extent that the board of directors acts, by resolution, to make it applicable.

The bill would specify that its provisions would be repealed as of January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 89090) is added to Chapter 1 of Part 55 of the Education Code, to read:

Article 5. Alumni

89090. (a) The trustees, alumni associations, and auxiliary organizations may distribute the names, addresses, and electronic mail addresses of alumni of the California State University to a business as described in subdivision (b), in order to accomplish any or all of the following:

(1) To provide those persons with informational materials relating to the university and its programs and activities.

(2) To provide those persons, the trustees, the alumni associations, and the auxiliary organizations with commercial opportunities that provide a benefit to those persons, or to the trustees ~~or the alumni associations~~, *alumni associations, or auxiliary organizations*.

(3) To promote and support the educational mission of the university, the trustees, the alumni associations, or the auxiliary organizations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The trustees, the alumni associations, or the auxiliary organizations have a ~~contractual~~ *written* agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code, that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the California State University retain the right to approve or reject any purpose for which the private information is to be used by the business, and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by

1 the trustees, the affected alumni association, or the affected
2 auxiliary organization unless and until the mailing conspicuously
3 identifies the university, the alumni association, or the auxiliary
4 organization as associated with the business described in the
5 mailing.

6 (B) If an affinity partner, as defined in Section 4054.6 of the
7 Financial Code, sends any message to any electronic mail
8 address obtained pursuant to this section, that message shall
9 include at least both of the following:

10 (i) The identity of the sender of the message.

11 (ii) A cost-free means for the recipient to notify the sender not
12 to electronically ~~mail~~ *transmit* any further message to the
13 recipient.

14 (2) The trustees, an alumni association, or an auxiliary
15 organization shall not disclose to, or share a ~~consumer's~~ *alumni*
16 nonpublic personal information with, a business, as defined in
17 paragraph (1) unless the institution, association, or organization
18 has clearly and conspicuously notified the ~~consumer~~ *alumnus*,
19 pursuant to subdivision (c), that the nonpublic personal
20 information may be disclosed to the business and that the
21 alumnus has not directed that the nonpublic personal information
22 not be disclosed.

23 (3) The disclosure of alumni names, addresses, and electronic
24 mail addresses does not include the names, addresses, and
25 electronic mail addresses of alumni who, pursuant to subdivision
26 (c) or in another manner, have directed the trustees, an alumni
27 association, or an auxiliary organization not to disclose their
28 names, addresses, or electronic mail addresses.

29 (4) No information regarding either of the following is
30 disclosed:

31 (A) Any current students of the California State University.

32 (B) Any alumnus who, as a student at a campus of the
33 California State University, indicated that, pursuant to the Family
34 Educational Rights and Privacy Act, he or she did not wish his or
35 her name, address, and electronic mail address to be disclosed.

36 (c) (1) The trustees, the affected alumni association, or the
37 affected auxiliary organization shall satisfy the notice
38 requirements of subdivision (b) if it uses the form set forth in
39 paragraph (2). The form set forth in this subdivision or a form
40 that complies with subparagraphs (A) to (J), inclusive, of this

paragraph shall be provided by the trustees, the alumni association, or the auxiliary organization to the alumnus as required in this subdivision, and shall describe the nature of the information the alumnus would receive should the alumnus choose not to opt out, so that the alumnus may make a decision and provide direction to the trustees, the alumni association, or the auxiliary organization regarding the sharing of his or her name, address, and electronic mail address:

(A) The form uses the title “IMPORTANT PRIVACY CHOICE” and the header, if applicable, as follows: “Restrict Information Sharing With ~~Business Affinity~~ Partners.”

(B) The titles and headers in the form are clearly and conspicuously displayed, and no text in the form is smaller than 10-point type.

(C) The form is a separate document, except as provided by subparagraph (B) of paragraph (3).

(D) The choice or choices provided in the form are stated separately, and may be selected by checking a box.

(E) The form is designed to call attention to the nature and significance of the information in the document.

(F) The form presents information in clear and concise sentences, paragraphs, and sections.

(G) The form uses short explanatory sentences (an average of 15 to 20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our ~~business partners~~ affinity partners (*companies that we partner with to offer products or services to our alumni*). Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our ~~business~~

1 ~~partners (companies that we partner with to offer products or~~
2 ~~services to our alumni):~~ *affinity partners*. This form does not
3 prohibit us from sharing your information when we are required
4 to do so by law. This includes sending you information about the
5 alumni association, the university, or other products or services.

6 **Your Choice**

7 **Restrict Information Sharing With—~~Business~~ *Affinity***
8 **Partners:**

9 Unless you say—~~“No,”~~ “*NO*,” we may share your name,
10 address, and electronic mail address with our ~~business~~ *affinity*
11 partners. Our ~~business~~ *affinity* partners may send you offers to
12 purchase various products or services that we may have agreed
13 they can offer in partnership with us.

14 () NO, please do not share my name, address, and electronic
15 mail address with your ~~business~~ *affinity* partners.

16 **Time Sensitive Reply**

17 You may decide at any time that you do not want us to share
18 your information with our *affinity* partners. Your choice marked
19 here will remain unless you state otherwise. However, if we do
20 not hear from you, we may share your name, address, and
21 electronic mail address with our ~~business~~ *affinity* partners.

22 If you decide that you do not want to receive information from
23 our partners, you may do one of the following:

24 (1) Call this toll-free telephone number: (xxx-xxx-xxxx).

25 (2) Reply electronically by contacting us through the
26 following Internet option: xxxxxxxxxxxxxx.com.

27 (3) Fill out, sign, and send back this form to us at the
28 following address (you may want to make a copy for your
29 records).

30 XXXXXXXXXXXXXXXXXXXX

31 XXXXXXXXXXXXXXXXXXXX

32 XXXXXXXXXXXXXXXXXXXX

33 Name:

34 Address:

35 Signature:

36 (3) (A) ~~None of the instructional items appearing in brackets~~
37 ~~in the form set forth in paragraph (2) shall appear in the form~~
38 ~~provided to the consumer, as those items are for explanation~~
39 ~~purposes only.~~ The trustees, the affected alumni association, or
40 the affected auxiliary organization shall not be in violation of this

1 subdivision solely because they include in the form one or more
2 brief examples or explanations of the purpose or purposes for
3 which, or the context within which, names, addresses, and
4 electronic mail addresses will be shared, as long as those
5 examples meet the clarity and readability standards set forth in
6 paragraph (1).

7 (B) The form shall be provided to alumni in each of the
8 following communications:

9 (i) The solicitation to students, upon their graduation, from the
10 trustees or the alumni association, encouraging students to join
11 the alumni association or to avail themselves of the services or
12 benefits of the association, shall include the form.

13 (ii) The alumni association magazine or newsletter, or both,
14 shall include the form on an annual or more frequent basis.

15 (iii) The Web site for the alumni association shall include a
16 link to the form.

17 (iv) A one-time mailing to all alumni on the university mailing
18 list as of January 1, 2006.

19 (v) An annual electronic communication to those alumni for
20 whom electronic mail addresses are available.

21 (4) The trustees, the affected alumni associations, or the
22 affected auxiliary organizations shall provide at least two
23 alternative cost-free means for alumni to communicate their
24 privacy choices, such as calling a toll-free telephone number; or
25 using electronic means. The trustees, the alumni association, or
26 the auxiliary organization shall clearly and conspicuously
27 disclose in the form required by this subdivision the information
28 necessary to direct the alumnus on how to communicate his or
29 her choice, including the toll-free telephone or facsimile number
30 or Web site address that may be used, if those means of
31 communication are offered.

32 (5) (A) An alumnus may direct at any time that his or her
33 name, address, and electronic mail address not be disclosed. The
34 trustees, the affected alumni association, or the affected auxiliary
35 organization shall comply with the direction of an alumnus
36 concerning the sharing of his or her name, address, and electronic
37 mail address within 45 days of receipt by the trustees, the alumni
38 association, or the auxiliary organization. When an alumnus
39 directs that his or her name, address, and electronic mail address

1 not be disclosed, that direction is in effect until otherwise stated
2 by the alumnus.

3 (B) Nothing in this subdivision shall prohibit the disclosure of
4 the name, address, and electronic mail address of an alumnus as
5 allowed by other applicable provisions of state law.

6 (6) The trustees ~~or the affected alumni association, or the~~
7 *affected alumni association or the affected auxiliary*
8 *organization*, may provide a joint notice from the trustees or
9 from one or more alumni associations, as identified in the notice,
10 so long as the notice is accurate with respect to the trustees and
11 the alumni association or associations *or auxiliary organization*
12 *or organizations* participating in the joint notice.

13 (d) As used in this section, “auxiliary organization” has the
14 same meaning as is set forth in Section 89901.

15 (e) This section shall not be construed to authorize the release
16 of any social security numbers.

17 89090.5. This article shall remain in effect only until January
18 1, 2011, and as of that date is repealed, unless a later enacted
19 statute, that is enacted before January 1, 2011, deletes or extends
20 that date.

21 SEC. 2. Article 4 (commencing with Section 92630) is added
22 to Chapter 6 of Part 57 of the Education Code, to read:

23

24

Article 4. Alumni

25

26 92630. (a) The regents and alumni associations may distribute
27 the names, ~~address~~ *addresses*, and electronic mail addresses of
28 alumni of the University of California or the Hastings College of
29 the Law to a business as described in subdivision (b) in order to
30 accomplish any or all of the following:

31 (1) To provide those persons with informational materials
32 relating to the university or college and its programs and
33 activities.

34 (2) To provide those persons, the regents, the board of
35 directors, and the alumni associations with commercial
36 opportunities that provide a benefit to those persons, or to the
37 regents, the board of directors, or the alumni associations.

38 (3) To promote and support the educational mission of the
39 university, the regents, the board of directors, or the alumni
40 associations.

(b) The disclosures authorized in subdivision (a) shall be permitted only if all of the following requirements are met:

(1) (A) The regents, the board of directors, or the alumni associations have a ~~contractual~~ *written* agreement with a business, as defined in subdivision (a) of Section 1798.80 of the Civil Code that maintains control over this data that requires the business to maintain the confidentiality of the names, addresses, and electronic mail addresses of the alumni, that requires that the University of California or the Hastings College of the Law retain the right to approve or reject any purpose for which the private information is to be used by the business and to review and approve the text of mailings sent to alumni pursuant to this section, and that prohibits the business from using the information for any purposes other than those described in subdivision (a). The text of a mailing intended to be sent to alumni pursuant to this section shall not be approved by the regents or the affected alumni association unless and until the mailing conspicuously identifies the university or the alumni association as associated with the business described in the mailing.

(B) If an affinity partner, as defined in Section 4054.6 of the Financial Code, sends any message to any electronic mail address obtained pursuant to this section, that message shall include at least both of the following:

(i) The identity of the sender of the message.

(ii) A cost-free means for the recipient to notify the sender not to electronically ~~mail~~ *transmit* any further message to the recipient.

(2) The regents, the board of directors, or an alumni association shall not disclose to, or share a consumer's nonpublic personal information with, a business, as defined in paragraph (1), unless the institution, association, or organization has clearly and conspicuously notified the consumer pursuant to subdivision (c), that the nonpublic personal information may be disclosed to the business and that the alumnus has not directed that the nonpublic personal information not be disclosed.

(3) The disclosure of alumni names, addresses, and electronic mail addresses does not include the names, addresses, and electronic mail addresses of alumni who, pursuant to subdivision (c) or in another manner, have directed the regents, the board of

1 directors, or an alumni association not to disclose their names,
2 addresses, or electronic mail addresses.

3 (4) No information regarding either of the following is
4 disclosed:

5 (A) Any current students of the University of California or the
6 Hastings College of the Law.

7 (B) Any alumnus who, as a student of a campus of the
8 University of California or the Hastings College of the Law,
9 indicated that, pursuant to the Family Educational Rights and
10 Privacy Act, he or she did not wish his or her name, address, and
11 electronic mail address to be disclosed.

12 (c) (1) The regents, the board of directors, or the affected
13 alumni association shall satisfy the notice requirements of
14 subdivision (b) if it uses the form set forth in paragraph (2). The
15 form set forth in this subdivision or a form that complies with
16 subparagraphs (A) to (J), inclusive, of this paragraph shall be
17 provided by the regents, the board of directors, or the alumni
18 association to the alumnus as required in this subdivision, and
19 shall describe the nature of the information the alumnus would
20 receive should the alumnus choose not to opt out, so that the
21 alumnus may make a decision and provide direction to the
22 regents and the alumni association regarding the sharing of his or
23 her name, address, and electronic mail address:

24 (A) The form uses the title “IMPORTANT PRIVACY
25 CHOICE” and the header, if applicable, as follows: “Restrict
26 Information Sharing With ~~Business~~ *Affinity* Partners.”

27 (B) The titles and headers in the form are clearly and
28 conspicuously displayed, and no text in the form is smaller than
29 10-point type.

30 (C) The form is a separate document, except as provided by
31 subparagraph (B) of paragraph (3).

32 (D) The choice or choices provided in the form are stated
33 separately, and may be selected by checking a box.

34 (E) The form is designed to call attention to the nature and
35 significance of the information in the document.

36 (F) The form presents information in clear and concise
37 sentences, paragraphs, and sections.

38 (G) The form uses short explanatory sentences (an average of
39 15 to 20 words) or bullet lists whenever possible.

(H) The form avoids multiple negatives, legal terminology, and highly technical terminology whenever possible.

(I) The form avoids explanations that are imprecise and readily subject to different interpretations.

(J) The form is not more than one page.

(2) The form reads as follows:

IMPORTANT PRIVACY CHOICE

You have the right to control whether we share your name, address, and electronic mail address with our ~~business partners~~ *affinity partners (companies that we partner with to offer products or services to our alumni)*. Please read the following information carefully before you make your choice below:

Your Rights

You have the following rights to restrict the sharing of your name, address, and electronic mail address with our ~~business partners (companies that we partner with to offer products or services to our alumni)~~ *affinity partners*. This form does not prohibit us from sharing your information when we are required to do so by law. This includes sending you information about the alumni association, the university, or other products or services.

Your Choice

Restrict Information Sharing With ~~Business~~ *Affinity Partners*:

Unless you say—~~No,~~ “NO,” we may share your name, address, and electronic mail address with our ~~business~~ *affinity* partners. Our ~~business~~ *affinity* partners may send you offers to purchase various products or services that we may have agreed they can offer in partnership with us.

() NO, please do not share my name, address, and electronic mail address with your ~~business~~ *affinity* partners.

Time Sensitive Reply

You may decide at any time that you do not want us to share your information with our partners. Your choice marked here will remain unless you state otherwise. However, if we do not hear from you, we may share your name, address, and electronic mail address with our ~~business~~ *affinity* partners.

If you decide that you do not want to receive information from our partners, you may do one of the following:

(1) Call this toll-free telephone number: (xxx-xxx-xxxx).

(2) Reply electronically by contacting us through the following Internet option: xxxxxxxxxxxx.com.

(3) Fill out, sign, and send back this form to us at the following address (you may want to make a copy for your records).

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

XXXXXXXXXXXXXXXXXXXX

Name:

Address:

Signature:

(3) (A) ~~None of the instructional items appearing in brackets in the form set forth in paragraph (2) shall appear in the form provided to the consumer, as those items are for explanation purposes only.~~ The regents, the board of directors, or the affected alumni association shall not be in violation of this subdivision solely because they include in the form one or more brief examples or explanations of the purpose or purposes for which, or the context within which, names, ~~address~~ *addresses*, and electronic mail addresses will be shared, as long as those examples meet the clarity and readability standards set forth in paragraph (1).

(B) The form shall be provided to alumni in each of the following communications:

(i) The solicitation to students, upon their graduation, from the regents, the board of directors, or the alumni association, encouraging students to join the alumni association or to avail themselves of the services or benefits of the association, shall include the form.

(ii) The alumni association magazine or newsletter, or both, shall include the form on an annual or more frequent basis.

(iii) The Web site for the alumni association shall include a link to the form.

(iv) A one-time mailing to all alumni on the university or college mailing list as of January 1, 2006.

(v) An annual electronic communication to those alumni for whom electronic mail addresses are available.

(4) The regents, the board of directors, or the affected alumni associations shall provide at least two alternative cost-free means for alumni to communicate their privacy choice, such as calling a

1 toll-free telephone number, or using electronic means. The
2 regents, the board of directors, or the alumni association shall
3 clearly and conspicuously disclose in the form required by this
4 subdivision the information necessary to direct the alumnus on
5 how to communicate his or her choices, including the toll-free
6 telephone or facsimile number or Web site address that may be
7 used, if those means of communication are offered.

8 (5) (A) An alumnus may direct at any time that his or her
9 name, address, and electronic mail address not be disclosed. The
10 regents, the board of directors, or the affected alumni association
11 shall comply with the direction of an alumnus concerning the
12 sharing of his or her name, address, and electronic mail address
13 within 45 days of receipt by the regents, the board of directors, or
14 the alumni association. When an alumnus directs that his or her
15 name, address, or electronic mail address not be disclosed, that
16 direction is in effect until otherwise stated by the alumnus.

17 (B) Nothing in this subdivision shall prohibit the disclosure of
18 the name, address, or electronic mail address of an alumnus as
19 allowed by other applicable provisions of state law.

20 (6) The regents, the board of directors, or the affected alumni
21 association may provide a joint notice from the regents, from the
22 board of directors, or from one or more alumni associations, as
23 identified in the notice, so long as the notice is accurate with
24 respect to the regents or the board of directors and the alumni
25 association or associations participating in the joint notice.

26 (d) This section shall not be construed to authorize the release
27 of any social security numbers.

28 92630.5. This article shall apply to the University of
29 California only to the extent that the regents act, by resolution, to
30 make it applicable. This article shall apply to the Hastings
31 College of the Law only to the extent that the Board of Directors
32 of the Hastings College of the Law acts, by resolution, to make it
33 applicable.

34 92630.9. This article shall remain in effect only until January
35 1, 2011, and as of that date is repealed, unless a later enacted
36 statute, that is enacted before January 1, 2011, deletes or extends
37 that date.